



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/663,543 | 09/17/2003 | Matthew Guttman | P-4004-1 | 3818 |

7590 03/09/2004

MYRON AMER, P.C.
Suite 310
114 Old Country Road
Mineola, NY 11501

| |
|----------|
| EXAMINER |
|----------|

SUHOL, DMITRY

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3712

DATE MAILED: 03/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/663,543 | GUTTMAN, MATTHEW | |
| | Examiner | Art Unit | |
| | Dmitry Suhol | 3712 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the structural features encompassed by the phrase "...first and second groups of at least five straps..." are unclear. It can't be determined if the applicants are claiming that a first and second group each have five straps or that the total number of straps is five between the two groups.

The features encompassed by the phrase "...five matches respectively of a selected color of a strap of said first group with a strap of said second group..." are unclear. The color relationship between the straps of the first and second groups can't be determined. It is unclear if the applicant is attempting to claim that a single strap of one group matches the color of each strap of the second group or just one strap of the second group. Furthermore, subsets (C) and (D) refer to "five matches" and "five cooperating interconnecting means" but subset (B) states "at least five straps" thereby implying that there maybe be more than five straps, in which case it is not clear if applicants are attempting to limit the claim to only five straps?

Additionally the features/structure/functional relationships encompassed by the phrase starting in subset (D) with "...effective upon interconnection..." and ending at the last line of the claim with "...because of the change of said board locations between said demonstrations" can't be determined. The features/structure/functional relationships as claimed are not clear.

Regarding claim 2, the structural features encompassed by the phrase "...first and second groups of plural straps..." are unclear. It can't be determined if the applicants are claiming that a first and second group each have plural straps or that the total number of straps is some plurality of straps (i.e. each group comprises only one strap).

The features encompassed by the phrase "...plural matches respectively of a selected cognitive feature of a strap of said first group with a strap of said second group..." are unclear. The cognitive relationship between the straps of the first and second groups can't be determined. It is unclear if the applicant is attempting to claim that a single strap of one group has a matching cognitive relationship of each strap of the second group or just one strap of the second group.

The features encompassed by the phrase "...plural cooperating interconnecting means respectively attached to free ends of said straps..." are unclear. It is unclear if applicants are claiming plural interconnecting means attached on a single strap or a plurality of straps.

Additionally the features/structure/functional relationships encompassed by the phrase starting in subset (D) with "...effective upon interconnection..." and ending at the last line of the claim with "...because of the change of said board locations between said demonstrations" can't be determined. The features/structure/functional relationships as claimed are not clear.

The remainder of the claims are considered as best understood by the examiner.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peat '623 in view of Krull '687. Peat discloses an educational device containing most of the elements of the claims, including a rectangular game board (panels 21, 22, 24, 26 and 28 shown in figure 1), a first group of straps (tabs on respective right sides of panels 22, 24, 26 and 28) and a second group of straps (tabs on respective left sides of panels 22, 24, 26 and 28) with the tabs of the first group matching the tabs of the second group through a variety of interconnecting means attached to free ends of the straps (figures 11-14) where the interconnecting means comprise male and female connections.

Art Unit: 3712

Peat fails to teach a color (or other cognitive feature as required by claim 2) associated with his straps, however Krull discloses an educational device which teaches that it is known to provide a variety of tabs associated with a variety of cognitive features including color where the color is associated with a connection/fastener type (col. 4, lines 33-35). Therefore it would have been obvious to one having ordinary skill in the art at the time of the claimed invention to have provided the tabs of Peat with color for the purpose of providing an educational toy that teaches color recognition by associating certain colors with certain fastening methods.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dmitry Suhol whose telephone number is 703-305-0085. The examiner can normally be reached on Mon - Friday 9am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 703-308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3712

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ds

A handwritten signature in black ink, appearing to read 'D. Banks', with a large, stylized loop at the end.

DERRIS H. BANKS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700